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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,682	01/16/2002	Terry Harmston	20136	5686
<div>7590 10/20/2009</div> <div>Steven E. Kahm, Esq. NIKOLAI & MERSEREAU, P.A. 900 Second Avenue South Suite 820 of the International Centre Minneapolis, MN 55402</div>				
			<div>EXAMINER</div> <div>CHIN SHUE, ALVIN C</div>	
			<div>ART UNIT</div> <div>3634</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>10/20/2009</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/046,682

Applicant(s)

HARMSTON, TERRY

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18 and 20-24 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hornung. Hornung shows a first transverse member 50, a second transverse member 54, and a fourth transverse member 52.

Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lunn. Lunn shows side members 43, a first transverse member 41 and a second transverse member 53.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung in view of Cinker. Hornung shows the claimed platform (having a first transverse member 50, second transverse member 52, third transverse member 28, fourth transverse member 54, and a fifth transverse member 44) with the exception of the claimed extent and spacing of his second transverse member 52. Cinker

shows a second transverse member 30 spaced beyond a depth of a pair of upright rails from a first transverse member 28 and extending beyond the widths of the pair of uprights rails to abut opposite faces of the upright rails to enable a wedged attachment of the longitudinal support. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second transverse member 52 of Hornung to be spaced beyond the depth of his upright rails 14,16, and to extend beyond the faces of his rails 14,16 to enable a wedged attachment of his platform to his rails.

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung, or Hornung and Cinker as applied to claims 22-24 above, and further in view of Peters. Peters shows a spring-biased rod 38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a spring-biased rod to Hornung for locking his platform to a rung of his ladder.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Cinker. Evans shows a first transverse member 12, a second transverse member 13, and locking means 19. The claimed difference being the outwardly extension of the transverse members to enable the longitudinally extending members to be located between the upright rails. Cinker shows transverse members 28, 30 extending outwardly of a longitudinal support and beyond the

widths of a pair of uprights rails to enable a wedged attachment of the longitudinal support there between. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Evans for his longitudinal members to positioned inwardly of the ends of his transverse members to enable same to be positioned between his upright rails.

Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 4.7.03 have been fully considered but they are not persuasive. With respect to Hornung under 35USC 102, member 54 is attached to the lower face of the rail 24 by means 32. with respect to Luan, Luan's ties 41,53 are considered to be proximate to each other, as the word "proximate" is a relative term..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-3008-1113.



Alvin C. Chin-Shue
Primary Examiner
Art Unit 3634

ACS
May 29, 2003